

Form 9638
(Rev. 4/2000)
Cat. No. 20613B

**Employee Benefit Plan
Coverage and Nondiscrimination Requirements:
Defined Benefit Plans
(Worksheet Number 5A - Determination of Qualification)**

INSTRUCTIONS-All items must be completed. A "Yes" answer generally indicates a favorable conclusion is warranted while a "No" answer indicates a problem exists. Please use the space on the worksheet to explain any "No" answer. See Document 6393, Explanation Number 5, for guidance in completing this form.

The technical principles in this worksheet may be changed by future regulations or guidelines.

Name of Plan _____

I. GENERAL REQUIREMENTS

Does the application include Schedule Q (Form 5300) and required attachments? [0530]

II. QUALIFIED SEPARATE LINES OF BUSINESS (QSLOB)

a. Is the employer using the QSLOB rules in testing whether a plan satisfies section 401(a)(26) or section 410(b)?
(If "No," do not complete this part.)

b. Does the plan satisfy the nondiscriminatory classification requirement on an employer-wide basis? [0531]

c. If the coverage or minimum participation requirements are applied on an employer-wide basis (in the case of an employer-wide plan), does the plan satisfy the special testing rule?
[0532]

III. ADDITIONAL PARTICIPATION REQUIREMENTS

a. Does the plan satisfy the minimum participation test under section 401(a)(26)? [0533]

b. Does the plan satisfy the minimum participation test under section 401(a)(26) with respect to former employees? [0534]

c. Does the plan's prior benefit structure satisfy section 401(a)(26)? [0535]

IV. DISAGGREGATION, PERMISSIVE AGGREGATION, AND RESTRUCTURING

a. Is the plan mandatorily disaggregated, or is the employer aggregating the plan with another plan or restructuring the plan for nondiscrimination purposes?
(If "No," do not complete this part.)

b. Has the employer provided the required demonstration pertaining to aggregation, disaggregation, and restructuring? [0536]

c. Has the employer provided required information separately with respect to each separate disaggregated plan, permissively aggregated plan, or restructured component plan? [0537]

V. COVERAGE

a. Does the plan satisfy the ratio percentage test? [0538]
(If "Yes," skip line "b.")

b. If the employer has requested a determination that the plan satisfies the average benefit test, does the plan satisfy: [0540]

(i) the nondiscriminatory classification test, and [0541]

(ii) the average benefit percentage test? [0542]

c. Does the plan satisfy coverage with respect to former employees? [0543]

VI. BENEFITS, RIGHTS, AND FEATURES (BRFs)

a. Has the employer requested a determination regarding current availability of BRFs?
(If "No," do not complete this part.)

b. Has the employer specified each BRF for which a determination is requested? [0544]

c. Has the employer demonstrated that the current availability requirement is satisfied for each specific BRF for which a determination is requested? [0545]

VII. PAST SERVICE AND SERVICE-CREDITING

a. If the plan provides for past service credit, has it been determined that a demonstration regarding the timing of the past service credit should not be requested? [0546]

b. Has it been determined that a demonstration regarding service-crediting under the plan should not be requested? [0547]

VIII. OTHER NONDISCRIMINATION REQUIREMENTS

a. Do the plan's provisions restrict benefits and distributions in accordance with the regulations? [0548, 0549, 0550]

b. Is the manner in which employees vest in their benefits under the plan nondiscriminatory? [0551]

c. Is the plan nondiscriminatory with respect to former employees:

(i) with regard to the amounts of contributions or benefits? [0552]

(ii) with regard to the availability of benefits, rights, and features? [0553]

IX. FLOOR-OFFSET SAFE HARBOR TESTING

Is the plan part of a floor-offset arrangement? [0554]
(If "Yes," refer to explanations before completing the remainder of the worksheet.)

X. NONDISCRIMINATORY CONTRIBUTIONS OR BENEFITS

a. Has the employer indicated that the plan is intended to satisfy a design-based safe harbor?
(If "Yes," skip to Part XI; if "No," continue with line b.)

b. If the employer has requested a determination regarding a general test, has the employer demonstrated that the test is satisfied? [0555]

c. If the employer has requested a determination regarding a nondesign-based safe harbor, has the employer demonstrated that the plan satisfies the alternative safe harbor for flat benefit plans? [0556]

XI. DESIGN-BASED SAFE HARBORS

a. Does the plan satisfy the uniformity requirements and one of the following safe harbors: [0557]

(i) unit credit safe harbor; [0558]

(ii) fractional rule unit credit safe harbor; [0559]

(iii) fractional rule flat benefit safe harbor; [0560]

(iv) insurance contract plan safe harbor; or [0561]

(v) cash balance plan safe harbor? [0562]

b. Does the plan satisfy the fresh-start requirements? [0563]

XII. EMPLOYEE CONTRIBUTIONS NOT ALLOCATED TO SEPARATE ACCOUNTS

a. If this is a contributory plan, would the plan satisfy a safe harbor on the basis of employer-provided benefit rates? [0564]

b. If the employer-provided benefit is determined under the composition-of-workforce method, has the employer demonstrated that the requirements are satisfied? [0565]

c. Is the employee-provided benefit nondiscriminatory in amount? [0566]

XIII. NONDISCRIMINATORY COMPENSATION

a. Does this design-based safe harbor plan use a nondiscriminatory definition of compensation for purposes of computing benefits? [0567]

b. In the case of a plan that covers self-employed individuals, does the plan define compensation for these individuals in a manner that satisfies section 414(s)? [0568]